

# **REQUEST FOR PROPOSAL**

**RFP 37/2015**

## **THE SUPPLY AND INSTALLATION OF PERMANENT GENERATORS**

**Summary, Guidelines, Conditions and Instructions**

TABLE OF CONTENTS

1	STRUCTURE OF THE RFP PACK .....	4
2	KEY DATES AND ACTIVITIES .....	4
3	SARS'S REQUIREMENTS .....	5
4	SARS'S APPROACH TO THIS RFP.....	5
5	BIDDING QUALIFICATION .....	6
6	BID SUBMISSION .....	8
7	EVALUATION AND SELECTION .....	10
8	INSTRUCTIONS FOR SUBMITTING A RESPONSE TO THIS RFP .....	18

### Summary, Guidelines, Conditions and Instructions

The South African Revenue Service (“**SARS**”) invites certain qualified persons (“**Bidders**”) to submit tenders and proposals (“**Tenders**”) in accordance with the rules set out in this RFP for the supply of the:

- Provision and Installation of Permanent Generators to SARS during the term of the agreement.
- SARS endeavours to appoint one (1) bidder per Office listed below. Proposals may be submitted by prospective service providers (“**Bidders**”) for any one or more SARS Offices of any of the following 6 Offices.

BID REF NUMBER	SARS OFFICE
RFP 37/2015 A	RANDFONTEIN
RFP 37/2015 B	SOWETO
RFP 37/2015 C	BENONI
RFP 37/2015 D	DURBAN TRESCON
RFP 37/2015 E	DURBAN PINETOWN

- Bidders must indicate in their proposal in respect of which of the SARS Offices they are submitting bids. **Bidders must note that a separate Proposal and Pricing Schedule must be provided in respect of each SARS Office for which a bid is submitted.**
- The tender pack will be available on softcopy for a purchase price of R100 from the 15<sup>th</sup> December 2015 at the SARS Finance Department, Hilton House, 570 Fehrsen Street, Brooklyn Bridge, Brooklyn, Pretoria, 0181.

## 1 STRUCTURE OF THE RFP PACK

### 1.1 Structure

This RFP Pack is organised in 5 (five) sections consisting of one or more documents in each section.

Section	Description of section contents
1	Documents outlining the RFP background, conditions, instructions and documents necessary for the Bidder to register for the Bidders briefing session.
2	Standard Bid Documents (SBDs). These documents are required by SARS Procurement and National Treasury to be read and to be returned as part of the Bidder's Tender response.
3	Documents outlining the business requirements, technical requirements and other information required by the Bidder to submit a Tender response.
4	The proposed agreement under which SARS wishes to contract the services.
5	Response templates. Templates that are required to form part of the Bidder's Tender response.

## 2 KEY DATES AND ACTIVITIES

The table below lists certain key dates and activities relevant from time of issuance of the RFP up to and until the Closing Date:

No	Description	Start Date/Time
1.	RFP is published	11 December 2015
2.	RFP issued	11 December 2015
3.	Site Visits	Randfontein 13 January 2016 at 09:00am Address: 39 Stubb Street, Randfontein, 1759
		Soweto-13 January 2016 at 12:00pm Address: 2223 Mncube drive Ekhaya Centre Dube Street Soweto 1800
		Benoni- 13 January 2016 at 14:00pm Address: 65 Howard Ave. Benoni, 1500
		Durban Trescon 12 January 2016 at 09:00 am Address: 201 Dr. Pixley ka Seme Street (formerly West Street), Durban
		Pinetown- 12 January 2016 at 14:00 pm Address: 2nd Floor, 36 Kings Road, Pinetown, 3610
		Uppington- 11 January 2016 at 11:00am Address: Ancorley Building, 26 Avenue, Uppington, 8801
4.	Bidders to submit written questions	From the 08 January to 15 January 2016
5.	Tenders due (the " <b>Closing Date</b> ")	22 January 2016

All dates and times in this RFP are South African Standard Time.

Any time or date in this RFP is subject to change at SARS's discretion. The establishment of a time or date in this RFP does not create an obligation on the part of SARS to take any action, or create any right in any way for any Bidder to demand that any action be taken on the date established, or on any other date. The Bidder accepts that; if SARS extends the deadline for RFP submission for any reason, the requirements of this RFP otherwise apply equally to the extended deadline.

### **3 SARS'S REQUIREMENTS**

#### **3.1 Introduction**

SARS's mandate under the South African Revenue Service Act 34 of 1997 includes the collection of all revenues that are due, ensuring maximum compliance with revenue legislation and providing a customs service that will maximise revenue collection, facilitate trade and protect the borders of South Africa. SARS's vision is to be an innovative revenue and customs agency that enhances economic growth and social development and supports South Africa's integration into the global economy in a way that benefits all citizens. SARS strives to exercise its mandate in an efficient and cost effective manner.

#### **3.2 Overview of SARS's Requirements**

Details of the required services are contained in the SARS Specification for the new Generator installation per office.

### **4 SARS'S APPROACH TO THIS RFP**

#### **4.1 Objectives**

SARS's primary objective in issuing this RFP is to conclude one or more service agreements with successful Bidders that will achieve the following:

- 4.1.1 best value for money;
- 4.1.2 the sustainable supply of Services; and
- 4.1.3 the meeting of SARS's current requirements (at a minimum) and providing for flexibility to meet SARS's future needs related to the scope.

## **5 BIDDING QUALIFICATION**

### **5.1 Introduction**

SARS has a detailed evaluation methodology premised on Treasury Regulation 16A3 of the Public Finance Management Act 1 of 1999, which prescribes that SARS's procurement processes be:

- 5.1.1 economical, efficient, fair, equitable, transparent, competitive and cost effective;
- 5.1.2 consistent with the Preferential Procurement Policy Framework Act 5 of 2000, read together with the Preferential Procurement Regulations, 2011; and
- 5.1.3 consistent with the Broad-Based Black Economic Empowerment Act 53 of 2003.

In furtherance of this evaluation methodology, the following bidding qualifications set out further in this paragraph 5 will apply.

### **5.2 Bidding Qualification**

- 5.2.1 Prospective Bidders who cannot, or do not, satisfy all of the conditions contained in paragraphs 5.2.1.1 to 5.2.1.34 should not submit bid proposals. If a Bidder is found not to meet any one of the requirements listed in paragraphs 5.2.1.1 to 5.2.1.34 then that Bidder's Tender will be rejected without any further consideration, at SARS's sole discretion.
  - 5.2.1.1 SARS is only interested in organisations that take accountability for service delivery. To avoid issues encountered where a single entity cannot provide the warranties of performance required or be held accountable for performance, SARS will not consider Tenders submitted by a consortium or a special purpose vehicle constituted only for the purpose of responding to this RFP.
  - 5.2.1.2 A Bidder must be a South African entity (Company, Close Corporation, Sole Proprietor or individual) or have a local branch office in South Africa.
  - 5.2.1.3 The Bidder must be fully tax compliant and must submit a valid and original Tax Clearance Certificate as part of its Tender. The Bidder's attention is further drawn to the requirement that the successful Bidder must ensure that it remains compliant with all South African Tax and Customs laws and regulations throughout the Term, and a failure to do so will be a material breach of the Agreement.
  - 5.2.1.4 The Bidder must comply with all applicable legislation in the Republic of South Africa in the performance of its daily activities, including but not limited to labour legislation and bargaining council agreements, health and safety regulations and environmental laws.
- 5.2.2 Subject to sub-paragraph 5.2.3 below, SARS will disqualify any Bidder who either itself or any of whose members (save for such members who hold a minority interest in the Bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15%

interest in the Bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of SARS or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):

- 5.2.2.1 engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other Bidder in respect of the subject matter of this RFP;
  - 5.2.2.2 seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
  - 5.2.2.3 makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of SARS's officers, directors, employees, advisors or other representatives;
  - 5.2.2.4 makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
  - 5.2.2.5 accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
  - 5.2.2.6 pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;
  - 5.2.2.7 has in the past engaged in any matter referred to in sub-paragraphs 5.2.2.1 to 5.2.2.6 foregoing; or
  - 5.2.2.8 has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such Bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.
- 5.2.3 SARS in its sole discretion will be entitled (but not obliged) to exempt, in writing, a Bidder from disqualification in terms of sub-paragraph 5.2.2.7 foregoing. A Bidder that stands to be disqualified in term of sub-paragraph 5.2.2.7 foregoing may, prior to submitting a Tender, approach SARS in writing for an exemption as foresaid, in which event:
- 5.2.3.1 the Bidder is required to provide SARS with full information to enable SARS to consider such application for exemption; and
  - 5.2.3.2 SARS will not be obliged to consider any such application or to grant any

exemption, such consideration or granting of exemption being solely within SARS's discretion.

- 5.2.4 By submitting a Tender the Bidder represents to SARS that it does not stand to be disqualified in terms of paragraph 5.2.1 foregoing, unless it has otherwise applied for exemption or been exempted in terms of paragraph 5.2.3 foregoing.
- 5.2.5 SARS will reject a Bidder's Tender without any further consideration where that Bidder makes culpable misrepresentation to SARS in its Tender or at any stage during this RFP process.
- 5.2.6 SARS may disqualify a Bidder:
  - 5.2.6.1 whose Tender contains a negligent misrepresentation which is materially incorrect or misleading;
  - 5.2.6.2 in respect of whom any of the members (save for such members who hold a minority interest in the Bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the Bidder other than through shares listed on a recognised stock exchange), directors or members of senior management are not in full compliance with all applicable laws relating to taxation in South Africa, in which regard SARS further reserves the right to require the Bidder to submit a valid tax clearance certificate in respect of any one or more such persons;
  - 5.2.6.3 whom SARS considers to be directly or indirectly owned, controlled or managed by persons who are not acceptable to SARS from an ethical, business or governance perspective;
  - 5.2.6.4 who fails to attend a site inspection referred to in paragraph 6;
  - 5.2.6.5 who had access to any of SARS's proprietary information or any other matter that may have unfairly placed that Bidder in a preferential position in relation to any of the other Bidders;
  - 5.2.6.6 who materially fails to comply with any conditions or requirements of this RFP;
  - 5.2.6.7 who in SARS's opinion has either materially failed to comply with any of the conditions of any existing or past agreement between such Bidder and SARS or who has performed unsatisfactorily under any such agreement; or
  - 5.2.6.8 who fails to respond as required to written notices given by SARS in connection with its Tender under this RFP.

## **6 BID SUBMISSION**

- 6.1.1 Bids must be properly received and deposited in the below mentioned tender box on or before the closing date and before the closing time at the Tender Submission Office situated at: Sars Procurement Centre, Brooklyn Bridge, Linton House - Ground Floor, 570 Fehrsern Street, Brooklyn, Pretoria.



- 6.1.2 Bid documents may either be posted to The Tender Office - SARS Procurement Department, Linton House, 570 Fehrson Street, Brooklyn Bridge, Brooklyn, Pretoria, 0181 OR placed in the tender box at the main entrance at the aforesaid address
- 6.1.3 Tender documents will only be considered if received by the Tender Office before the Closing Date and time, regardless of the method used to send or deliver such documents to SARS.
- 6.1.4 Late tenders will not be accepted.
- 6.1.5 In this RFP document the terms “shall” and “must” indicate a mandatory requirement. Bidder compliance with mandatory requirements are essential. Failure to comply with such requirements can lead to the disqualification of a Bidder. The terms “should” or “may” indicate desirable or advisory requirements. Bidder compliance with such terms may lead to an increase in a Bidder’s technical score.
- 6.1.6 All tenders and supporting documentation must be submitted in English.
- 6.1.7 All costs incurred during the preparation and compilation of a Bidder’s proposal, as well as the delivery of a Bidder’s tender documents to SARS will be borne exclusively by the Bidder
- 6.1.8 Tenders must be valid for a minimum period of 180 days from the Closing Date.

## **6.2 TENDER COMPLIANCE**

- 6.2.1 The Bidder’s attention is drawn to the following documents which are required as part of a Bidder’s Tender and which, if omitted, may at SARS’s sole discretion result in that Tender being disqualified:

**TABLE 1**

	<b>Name of the document that must be submitted</b>	<b>Non-submission may result disqualification?</b>
1	Invitation to bid – SBD 1	YES – Please complete and sign the supplied pro forma document.
2	Tax Clearance Certificate – SBD 2	YES – Please submit a valid and original copy of the certificate.
3	Pricing Schedule – SBD 3.3	YES – Please submit full details of pricing proposal to SARS on Annexure B.
4	Declaration of Interest – SBD 4	YES - Please complete and sign the supplied pro forma document.

	Name of the document that must be submitted	Non-submission may result disqualification?
5	SBD 6.1 – Preference Point Claim Form	No–Non-submission will lead to a zero score on BEE.
6	SBD 6.2- Local content	YES - Please complete and sign the supplied pro forma document.
7	Declaration of Bidder's Past Supply Chain Management Practices – SBD 8	YES - Please complete and sign the supplied pro forma document.
8	Certificate of Independent Bid Determination – SBD 9	YES - Please complete and sign the supplied pro forma document
9	SARS' s Oath of Secrecy	YES – Please complete and sign the supplied pro forma document in the presence of Commissioner of Oaths and initial every page.
10	BEE certificate	No–Non-submission will lead to a zero score on BEE.
11	Supplier Cost and Risk assessment questionnaire	YES - Please complete and sign the supplied pro forma document
10	Audited/reviewed financial statements for the past 3 (three) financial years. The Financial Statements must be submitted in the name of the company that tenders. If Financial Statements are only available for the holding company, the holding company must also provide a letter confirming that their Financial Statements can be used on their official letter head and signed off by their financial representative.	

## 7 EVALUATION AND SELECTION

### 7.1 Process after Closing Date

After the Closing Date in paragraph 2:

- 7.1.1 SARS may request additional information, clarification or verification in respect of any information contained in or omitted from a Bidder's Tender, which SARS may do either in writing or at a meeting convened with the Bidder for that purpose;
- 7.1.2 SARS may conduct a due diligence on any Bidder, which may include interviewing customer references or performing other activities to verify a Bidder's submitted or

other information and capabilities (including visiting the Bidder's various premises and/or production sites to verify certain stated facts or assumptions) and in which regard the Bidder will be obliged to provide SARS with all such access, assistance and/or information as SARS may reasonably request. The Bidder shall respond within the timeframes set by SARS, failing which SARS reserves the right not to consider the Bidder's Tender any further;

- 7.1.3 no material amendment/s may be made to a Tender, unless specifically permitted or requested by SARS;
- 7.1.4 SARS may shortlist Bidders and may request presentations from such short-listed Bidders. All costs relating to the preparation of such presentations will be borne by the Bidders;
- 7.1.5 SARS may enforce whatever measures it considers necessary to ensure the confidentiality and integrity of the contents of the respective Tenders;
- 7.1.6 SARS will evaluate the Tenders with reference to SARS's Evaluation Criteria. SARS reserves the right to employ subject matter experts to assist in performing such evaluations.

## **7.2 SARS's Pre-qualification Criteria – Gate 0**

- 7.2.1.1 SARS has defined minimum pre-qualification criteria that must be met by the Bidder in order for SARS to accept a Tender for evaluation. In this regard a pre-evaluation verification will be carried out by SARS in order to determine whether a Tender complies with the provisions of paragraphs 5.2 and 6.2:
- 7.2.1.2 Where there is a failure to comply fully with any of the pre-qualification criteria, or SARS is for any reason unable to verify whether the pre-qualification criteria are fully complied with, SARS will have the right to either:
  - 7.2.1.2.1 reject the Tender in question and not to evaluate it at all;
  - 7.2.1.2.2 give the Bidder an opportunity to supplement the information and/or documentation provided by it under its Tender so as to achieve full compliance with the pre-qualification criteria, provided that such information and/or documentation can be provided within a period of 7 (seven) days and is purely administrative in nature;
  - 7.2.1.2.3 in any event permit the Tender to be evaluated, subject to the outstanding information and/or documentation being submitted prior to the award of the tender.

## **7.3 SARS's Technical Evaluation Criteria – Gate 1**

- 7.3.1 Only bidders that have met the pre-qualification criteria in (gate 0) will be evaluated in gate 1 for technical adjudication criteria. In the technical analysis criteria, bidders will need to attain a minimum of 65% out of 100 points to proceed to the next stage, i.e. Price and BEE;

- 7.3.2 Notwithstanding the above, and in the event that no proposals achieve the functionality qualifying point, SARS at its sole discretion may consider the highest scoring Proposal and/ or Proposals scoring higher than 90% of the score of the highest scoring proposal for selection to the next stage.

Item	Deliverable	Total Points Awarded
1	Compliance of Equipment with the Specification	44
2	Proven Track Record	30
3	Lead Times	16
4	Footprint	10
	<b>Total Points</b>	<b>100</b>

#### 7.4 SARS's Pricing and BEE Evaluation – Gate 2

- 7.4.1 In the second stage of the evaluation, Tenders that passed the prescribed technical threshold will be evaluated in terms of the 90/10 preference points system under section 2 of the Preferential Procurement Policy Framework Act, 2000, read with the Preferential Procurement Regulations, 2011.

Criterion	Points
BBBEE status	10
Price	90

#### Stage 1 – Price Evaluation (90 points).

Adjudication Criteria	Points
Price Evaluation $P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	90

Where

$P_s$  = Points scored for price of bid under consideration  
 $P_t$  = Rand value of bid under consideration  
 $P_{\min}$  = Rand value of lowest acceptable bid

**Stage 2 – BEE Evaluation (10 points)**

Adjudication Criteria	Points
BEE Evaluation (BEE Certificate and/or submission of SBD 6.1)	10

## B-BBEE BID REQUIREMENTS

### ARTICLE I. B-BBEE

In line with the requirements of the PPPFA tenders that have achieved the minimum qualifying score for functionality will be evaluated further in terms of the prescribed preference point systems

- (i) Regulation 5 - 80/20 : A maximum of 20 points may be allocated to a bidder
- (ii) Regulation 6 - 90/10 : A maximum of 10 points may be allocated to a bidder

### ARTICLE II. BID EVALUATION PROCESS GATE 2: B-BBEE EVALUATION

Stage 2 – B-BBEE Evaluation (10/20 points)

B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

Adjudication Criteria	Points
A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1) and a B-BBEE Certificate	10/20

The checklist below indicates the B-BBEE documents that must be submitted for this tender. Failure to submit the required documents will result in service providers scoring zero for B-BBEE.

Classification	Turnover	Submission Requirement
Exempted Micro Enterprise ( EME)	Below R5 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA or a letter from an Accounting Officer as contemplated in the CCA.
Qualifying Small Enterprise (QSE)	Between R5 million and R35 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by

		IRBA
Large Enterprise (LE)	Above R35 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA

Bidders who do not claim Preference Points will be scored zero for B-BBEE and cannot be excluded from the tender process.

### **ARTICLE III. JOINT VENTURES AND CONSORTIUMS**

Incorporated JVs must submit the B-BBEE status of the entity. Unincorporated JVs must submit a consolidated B-BBEE scorecard as if they were a group structure for every separate tender.

### **ARTICLE IV. SUB-CONTRACTING**

Bidders/ tenderers who want to claim Preference points will have to comply fully with regulations 11(8) and 11(9) of the PPPFA Act with regard to sub – contracting.

The following is an extract from the PPPFA Act:

- 11(8) “A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub- contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.”
- 11(9) “A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.”

#### **7.5 Acceptance of RFP conditions**

The Bidder's participation in the RFP process is deemed to constitute acknowledgement and acceptance by the Bidder of the terms and conditions contained in this RFP.

#### **7.6 Reservation of rights**

SARS reserves the right in its discretion to:

- 7.6.1 make no award
- 7.6.2 withdraw, suspend or cancel this RFP or the RFP process at any time and without providing reasons;
- 7.6.3 not provide reasons for its rejection or the failure of any Bidder or Tender, save on application and in terms of applicable legislation;

- 7.6.4 change any of its requirements as set out in this RFP by giving Bidders reasonable notice;
- 7.6.5 change any condition, procedure or rule of the RFP by giving Bidders reasonable notice;
- 7.6.6 amend, vary, or supplement any of the information, terms or requirements contained in this RFP, any information or requirements delivered pursuant to this RFP, or the structure of the RFP process;
- 7.6.7 re-advertise for Tenders;
- 7.6.8 provide further information in respect of, and modify the provisions of, this RFP at any time prior to the Closing Date by notice to all prospective Bidders;
- 7.6.9 conduct site visits and/or perform audits whenever SARS deems it prudent to do so;
- 7.6.10 undertake further checks on Bidders, which may include information on public record or in the public domain, information contained in internal SARS records or information received from other government institutions;
- 7.6.11 no longer consider a Bidder's Tender where adverse information about the Bidder or its Tender submission has come to the attention of SARS, provided that such Bidder is informed accordingly and invited to comment;
- 7.6.12 to award a Tender based on which Bidder is offering the best value for money, even if such Tender is not the lowest priced tender; and
- 7.6.13 to make the award subject to the successful Bidder entering into a duly signed contract with SARS.

#### **7.7 Validity of information**

SARS has made reasonable efforts to ensure the accuracy of the information contained in this RFP. However, neither SARS, nor its employees, officers, advisers or agents will be liable to the Bidder or any third party for any inaccuracy, the omission of any information in the RFP or in respect of any additional information SARS may provide to the Bidder as part of the RFP process.

The Bidder is deemed to have examined this RFP and any other information supplied by SARS to the Bidder and to have satisfied itself before submitting any of its responses as to the correctness and sufficiency of such information.

#### **7.8 RFP not an offer**

This RFP does not constitute an offer to do business with SARS, but merely serves as an invitation to Bidders to facilitate a requirements-based decision process.

Nothing in this RFP or any other communication made between SARS (including its officers, directors, employees, advisers and representatives) is a representation that SARS will offer, award or enter into a contract with the Bidder.

**7.9 Preparation Costs**

The Bidder will bear all its costs in preparing, submitting and presenting any response or Tender to this RFP and all other costs incurred by it throughout the RFP process. Furthermore, no statement in this RFP will be construed as placing SARS, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the Bidders in the preparation of their response to this RFP.

**7.10 Conflict of Interest**

If at any time the Bidder identifies an actual or potential conflict of interest, the bidder must immediately notify SARS in writing. SARS reserves the right to exclude the Tender submitted by such Bidder from further consideration, unless the Bidder is able to resolve the conflict.

**7.11 Indemnity**

If a Bidder breaches the conditions of this RFP and, as a result of that breach, SARS incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the RFP process and/or enforcement of intellectual property rights or confidentiality obligations), then the Bidder indemnifies and holds SARS harmless from any and all such costs which SARS may incur and for any damages or losses SARS may suffer.

**7.12 Precedence**

This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

**7.13 Responsibility for sub-contractors and Bidder's personnel**

A Bidder is responsible for ensuring that its sub-contractors (if any), personnel (including officers, directors, employees, advisors and other representatives of a Bidder) and personnel of its sub-contractors comply with all terms and conditions of this RFP and in particular the provisions of paragraph 7.1410 below. In the event that SARS allows a Bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the Bidder and SARS will not under any circumstances be liable for any losses or damages incurred by such sub-contractors,

**7.14 Confidentiality**

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this RFP or a Bidder's Tender(s) will be disclosed by any Bidder or other person not officially involved with SARS's examination and evaluation of a Tender.

No part of the RFP may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Tender. This RFP and any other documents



supplied by SARS remain proprietary to SARS and must be promptly returned to SARS upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived therefrom.

Throughout this RFP process and thereafter, Bidders must secure SARS's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this RFP relates; or (ii) the process which follows this RFP. Failure to adhere to this requirement may result in disqualification from the RFP process and civil action.

After the Closing Date, no confidential information relating to the process of evaluating or adjudicating Tenders or appointing a Bidder will be disclosed to a Bidder or any other person not officially involved with such process.

#### **7.15 Intellectual Property**

SARS retains ownership of all Intellectual Property Rights in the tender information documents that form part of this RFP. Bidders will retain the Intellectual Property Rights in their tender responses, but grant SARS the right to make copies of, alter, modify or adapt their responses, or to do anything which in its sole discretion is necessary to do for reasons relating to the RFP process.

#### **7.16 Limitation of Liability**

A Bidder participates in this RFP process entirely at its own risk and cost. SARS shall not be liable to compensate a Bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this RFP process.

#### **7.17 Tax Compliance**

- 7.18 No tender shall be awarded to a Bidder who is not tax compliant. SARS reserves the right to withdraw an award made, or cancel a contract concluded with a successful Bidder in the event that it is established that such Bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance Certificate to SARS. SARS further reserves the right to cancel a contract with a successful Bidder in the event that such Bidder do not remain tax compliant for the full term of the contract.

No tender shall be awarded to a Bidder (or any of its members, directors, partners or trustees) whose names appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. SARS reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a Bidder has been blacklisted with National Treasury by another government institution.

#### **7.19 Governing Law**

South African law governs this RFP and the RFP response process. The Bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any

kind that may arise out of or in connection with the subject matter of this RFP, the RFP itself and all processes associated with the RFP.

## 8 INSTRUCTIONS FOR SUBMITTING A RESPONSE TO THIS RFP

This paragraph 10 details the instructions to Bidders for preparing a Tender response to RFP 37/2015. These instructions must be followed in detail to ensure that the information contained in the Bidder's Tender is correct, complete and well structured. All Tenders must comply with the requirements and instructions as set out in the RFP. Bidders must ensure that information

and documentation supplied can be easily understood and thus, evaluated in a fair and consistent manner. Should a Tender be received that is not in the correct format, SARS reserves the right to reject the entire Tender or portions of the Tender depending on the extent of the deviation from the format described in this document. Information that has not been requested must not be submitted in the Bidder's Tender.

### 8.1 Organisation of a Tender response

Irrespective of whether the Bidder is responding to portions of the Tender, or the Tender as a whole, the Bidder will be required to submit the following:

FILE 1	<p>Section 1</p> <p>Pre-qualification documents (SBD documents)</p> <p>Section 2</p> <ul style="list-style-type: none"> <li>• Technical Responses</li> <li>• Supporting documents for technical responses</li> <li>• References/testimonials</li> </ul> <p>3 years audited /reviewed Financial statements</p> <p>Section 3</p> <ul style="list-style-type: none"> <li>• Company profile</li> <li>• Supplementary information</li> </ul> <p>Section 4</p> <ul style="list-style-type: none"> <li>• Signed SLA</li> </ul>
FILE 2	<p>Section 1</p> <ul style="list-style-type: none"> <li>• BEE Certificate</li> </ul> <p>Section 2</p> <ul style="list-style-type: none"> <li>• Pricing Schedule</li> </ul>